

SHOOT-OUT AT RUBY RIDGE

The Randy Weaver Trial

*Yet another
example of
government
versus the
people.*

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On June 15, in Boise, Idaho, the Randy Weaver case was sent to the jury. The case is an example of a government gone mad, a government that deployed more than 400 FBI agents and US marshals to a remote Idaho mountaintop to "get Randy Weaver".

Randy Weaver, his wife Vicki, their four children, and friend Kevin Harris have now become a cause célèbre among 'anti-government/anti-establishment' political networks throughout the West.

It began last August 21, when US marshals initiated a shoot-out with the Weavers and Kevin Harris near Bonner's Ferry, Idaho. During the assault against the Weaver household, the federal agents managed to murder the Weavers' 14-year-old son, shooting him in the back as he ran toward his home, assassinated Vicki Weaver as she stood in her doorway with her baby in her arms, wounded Randy Weaver and Kevin Harris, and even killed the Weavers' dog, with a shot in the back as it was running away.

After an 11-day siege, Weaver, Harris, and the surviving children surrendered to the FBI, after former presidential candidate Lt. Col. (Retired) Bo Gritz intervened and helped to negotiate the surrender. If it had not been for Gritz's personal intervention, the FBI would have undoubtedly ensured that there would have been no live witnesses to testify in court.

The assault on the Weavers by the FBI and the Bureau of Alcohol, Tobacco, and Firearms (BATF) was run by the same FBI "Hostage Rescue Team" that carried out the assault and murder against the Branch Davidians in Waco, Texas earlier this year. The government learned several lessons in the Weaver siege that were applied in Waco, among them not letting the media get too close, destroying all the evidence, and killing everyone possible, i.e., not leaving any evidence on the scene that could point to government misconduct.

The federal marshals had had the Weaver home, located in an isolated area of northern Idaho, under surveillance for 18 months, attempting to arrest Weaver on a warrant that charged him with failure to appear on a 1990 weapons charge for illegally selling two sawed-off shotguns to a BATF undercover informant.

THE GOVERNMENT SET UP WEAVER

As revealed in court testimony, this original charge was a complete set-up by the BATF, using a government-paid provocateur named Kenneth Fadeley, who is now finding himself a new identity under the Federal Witness Protection Program. Fadeley is a self-described spy for the BATF who was posing as a firearms dealer and using the alias Gus Magiosono. According to Weaver's attorney, Chuck Peterson, Fadeley was so determined to set Weaver up, that he even pointed out where to cut on the barrel of the shotgun, to ensure that Weaver cut it short enough to qualify it as "sawed-off", and therefore as an illegal weapon.

Herb Byerly, a BATF agent in Spokane who supervised Fadeley, testified that after two sawed-off shotguns were sold to the informant, allegedly by Weaver, Byerly and another agent confronted Weaver with the evidence, to try to coerce him into becoming their agent.

Despite the threat of prosecution, Weaver angrily refused to become a "snitch". So, he was arrested on January 17, 1991, at the same cabin which in 1992 would become the scene of the deadly shoot-out.

The set-up continued. Weaver was ordered to appear for trial on February 19, 1991. After Weaver had left the courthouse, the trial date was changed to February 20. Then a court official supposedly made a mistake and notified Weaver that the trial date was March 20.

When Weaver did not appear on February 20 for the trial, a federal judge issued a bench warrant for his arrest for failing to appear. Even after authorities discovered their error, Weaver was indicted for failing to appear. Maurice Ellsworth, US Attorney for Idaho, testified that after Weaver failed to show up for the February 20 trial, he directed his staff to obtain the indictment, even though he knew a court officer had told Weaver in a letter that the trial would begin March 20.

THE MARSHALS SHOT FIRST

The key question in the trial, around which the charges of murder and conspiracy to commit murder (of Federal Marshal William Degan) revolve, is who shot first, the marshals or the defendants.

The first shooting on August 21, 1992 began when six specially trained marshals, including Degan, approached the Weaver cabin with silencer-equipped assault rifles and camouflage gear.

The government prosecutors claim that 14-year-old Sammy Weaver's dog Striker alerted Sammy, Weaver and Harris, and they followed the dog to the agent's hiding place. Then, the prosecutors say, Harris fired the first shot, instantly killing Degan.

What the prosecution has yet to explain is how Marshal Degan was able to fire seven single shots from his weapon after he was dead, since that is the number of spent shell casings from his weapon that were later found where he was shot. Since Degan's weapon was set on semi-automatic, it required him to pull the trigger seven times.

In summation, just prior to the case being sent to the jury, defense attorney Gerry Spence set off a bombshell when he referred to the testimony of the government's own ballistics expert witness, who had testified that the bullet hole in the backpack of Marshal Degan had been fired by Marshal Cooper. Spence told the jury that they should not rule out the possibility that Degan was killed by Cooper, and not by Kevin Harris.

In addition, several prosecution witnesses have testified that they distinctly first heard the report from the marshal's weapon, which makes a sharply different sound than the weapons of the defendants. Weaver's lead defense attorney, Gerry Spence, and Harris's attorney, David Nevin, presented a much different and more believable reconstruction of this confrontation than did the prosecution.

Nevin said that the first round fired was that of another marshal, Art Roderick, shooting the dog. The second shot was supposedly that of Sammy Weaver, reacting in anger to the shooting of his dog, while at the same time turning to run from the marshals. The marshals then opened up with a full return fire. Marshals Larry Cooper and Degan both shot at Sammy Weaver, killing him with one or more bullets in the back as he ran for home.

Attempting to defend Sammy, Harris then fired toward the marshals. But no evidence was presented by the prosecution that proved that Kevin Harris killed Degan.

Bolstering the defense's arguments was the testimony given on June 3, by one of the other federal marshals present that day. Marshal Frank Norris, a prosecution witness, stated that the first shots he heard were from the rifles of the marshals. A paramedic, on the scene as part of the backup for the marshals, also testified that he distinctly heard the report of the marshals' weapons first.

Prosecutorial misconduct has permeated this case. In court on May 22, the defense announced that they had just been informed that notes "found in a desk drawer in FBI headquarters", written by agent Cooper and another agent, contradict the testimony of the marshals, clearly stating that Marshal Roderick fired first, shooting the dog. This piece of evidence had been withheld from the defense for weeks.

The most egregious example of government misconduct, and one that finally pushed US District Judge Edward Lodge to impose sanctions on the prosecutors on June 8, was revealed in court on June 4. The judge, calling the conduct of the FBI "totally inexcusable", ordered the federal government to pay all defense attorney fees for one day, and to recall FBI sniper Lon Horiuchi, who had killed Vicki Weaver, from Washington, DC, to testify again. Horiuchi had testified that he was aiming at Kevin Harris as Harris ran into the house, and that the killing of Vicki Weaver was an acci-

dent. The FBI documents received by the defense indicate that Horiuchi knew that Vicki Weaver was in the line of fire.

These internal FBI documents that defense attorneys had subpoenaed in mid-April for use in cross-examining FBI witnesses, including Horiuchi, were not given to them until noon on Friday, June 4, just minutes after Horiuchi had stepped down from the witness stand and had been hurriedly put on a plane heading for Washington, D.C.

The FBI sent the documents from Washington by fourth-class mail, which took two weeks to reach Boise!

Judge Lodge wasn't buying any excuses. He said that this incident culminated a clear pattern of delayed disclosures and mishandling of evidence by federal prosecutors and investigators.

In trial on May 26, the prosecutor apologized to the court after admitting that he had been told eight weeks earlier that FBI investigators had fabricated photographs of evidence from the shoot-out. Prosecutor Howen said that photos turned over to the defense showing evidence at the scene of the shoot-out were staged by the FBI. They were reconstructed—taken after FBI agents removed the evidence and then put it back where they thought it came from.

As part of this pattern, in May FBI agents testified that they had either lost or mishandled key pieces of evidence from the shoot-out.

The ones who should be on trial here are the federal agents of the BATF, the Marshals Service, and the FBI, who murdered Sammy and Vicki Weaver and are also responsible for the death of Marshal Degan. The only conspiracy in this case is that created by the federal government: a conspiracy to entrap an innocent man, blackmail him, prosecute him, and then attempt to assassinate him and his entire family.

In his closing arguments to the jury, lead defense attorney Gerry Spence said that after the federal agents murdered Sammy Weaver and had the dead body of their colleague Marshal William Degan lying in the woods beside them, they awoke the next day and realized that they had really blundered. The rest of the siege, including the assassination of Vicki Weaver, and the entirety of the prosecution's case, was and has been an attempt by the federal government to cover up its own crimes, Spence argued.

As revealed in court, the lead prosecution attorney in the case, Ronald Howen, was on the scene at the Weaver cabin the day that Vicki Weaver was murdered. On that day he began constructing the government's cover-up, outlining the scenario for the agents' stories, and planting and altering the evidence. Spence had sought to disqualify him as the prosecutor, and to have him called as a witness. The judge refused that request.

Ronald Howen, in his closing arguments on June 11, looking pale and speaking almost incoherently, stopped midway through his presentation. He told the judge that he could not continue, and left the courtroom. He did not return, and the government will not say what happened to him.

Postscript:

The jury deliberated for 21 days (a new record for the state of Idaho) before clearing Kevin Harris of all charges.

Randy Weaver was found not guilty of all major charges, but was found guilty of failure to appear in court on a weapons violation, and committing an offense while on release pending a trial.

Attorneys for Randy Weaver are appealing the two minor convictions, and are planning to sue the federal government for civil damages.

**The assault on the Weavers
...was run by the same FBI
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earlier this year.**